

R E M A R K S

In the Office Action, applicants election without traverse of Group I, claims 1-28 and 40-51 was acknowledged.

Claims 1-28, and 40-51 were objected to on the informalities mentioned in the Office Action. Claims 21, 22, 28 and 40 were objected to under 37 CFR 1.74(c) as being in improper form as stated in the Office Action. Claims 1-28 and 50-51 were rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention as mentioned in the Office Action.

Claims 1-7, 13-22, and 27 were rejected under 35 USC 102(b) as anticipated by Houle et al (US 4,988,543) on the grounds set forth in the Office Action. Claims 1-10, 13-23, 27, and 40-51 were rejected under 35 USC 102(b) as anticipated to Salzer (US 5,053,446) for the reasons stated in the Office Action.

Claims 11, 12 were rejected under 35 USC 103(a) as unpatentable over Salzer (US 5,053,446) in view of Kaercher et al (US 3,687,351) on the grounds set forth in the Office Action. Claims 24-26 and 28 were rejected under 35 USC 103(a) as unpatentable over Salzer (US 5,053,446) in view of Buckley (US 6,004,662) for the reasons stated in the Office Action.

In order to overcome these rejections and to secure allowable subject matter, claims 1-28 and 40-51 are canceled and are replaced with new claims 65-94 that are directed to the subject matter of claims 1-28 and 40-51.

The new claim 65 refers to a latent heat body being of granulate form and based on a mineral substance.

The Examiner refers in the Office Action to US-PS 5,053, 446 (Salzer). However, Salzer is not disclosing a carrier material for latent heat material based on mineral material. He is disclosing rather a carrier material based on plastic. It is specifically a cross-linked polyolefin plastic. It is further disclosed in this reference, that one can form pellets of such plastic carrier material. Only those pellets - after the material is prepared as pellets and become filled with latent heat material - can be embedded then in a cementitious matrix. The cementitious matrix does not act as a carrier material for the latent heat material (see column 3, line 13 to 18).

Latent heat bodies in form of granules based on mineral material are also not known from US-PS 4,988,543 (Houle).

Even a combination of Houle with Salzer would therefore not lead to the subject matter of new claim 65.

It is also not rendered obvious by such combination.

An expert in the field aiming to improve latent heat bodies based on mineral material would not look at the Salzer reference for combination because this reference does refer to a completely different carrier material, namely plastic carrier material.

If there would be such combination at all, the expert could only come to a result of moulding out of possibly sand like mineral material such as pellets.


Concerning claims 80 to 94, referring to a floor heating, no teaching of the cited art is close to this. This is a completely new concept of floor heating based on a latent heat body with carrier material in the form of a mineral substance having an open capillary pore structure.

Accordingly, this amendment and argument are believed to overcome the objections and rejections to obtain allowable subject matter.

In the event there are further issues remaining in any respect the Examiner is respectfully requested to telephone attorney to reach agreement to expedite issuance of this application.

Since the present claims set forth the present invention patentably and distinctly, and are not taught by the cited art either taken alone or in combination, this amendment is believed to place this case in condition for allowance and the Examiner is respectfully requested to reconsider the matter, enter this amendment, and to allow all of the claims in this case.


Respectfully submitted,
Klaus Fieback, et al

by: 
MARTIN A. FARBER
Attorney for Applicants
Registered Representative
Registration No. 22,345

CERTIFICATE OF MAILING UNDER 37 CFR SECTION 1.8(a)

I hereby certify that the accompanying Amendment is being deposited with the United States Postal Service as first class mail in an envelope address to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on June 10, 2003.

Dated: June 10, 2003


MARTIN A. FARBER

866 United Nations Plaza
Suite 473
New York, NY 10017
(212) 758-2878